

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PARAGON PET PRODUCTS EUROPE B.V.,

Plaintiff,

v.

MARS, INCORPORATED and THE NUTRO  
COMPANY,

Defendants.

15 Civ. 5520 (PAE)

ECF Case

**DECLARATION OF DAVID HORNIK  
IN SUPPORT OF DEFENDANTS'  
MOTION TO DISMISS FIRST  
AMENDED AND  
SUPPLEMENTAL COMPLAINT**

I, David Horniak, hereby state as follows:

1. I am an associate at Williams & Connolly LLP, counsel for Defendants Mars, Incorporated ("Mars") and The Nutro Company ("Nutra") in this action. I have personal knowledge of the matters stated in this declaration.

2. I submit this declaration in support of Defendants' Motion to Dismiss Plaintiff's First Amended and Supplemental Complaint.

3. Attached hereto as Exhibit 1 is a true and correct copy of Nutro's complaint in *The Nutro Company v. Paragon Pet Products USA, Inc. et al.*, No. 13-cv-01232 (M.D. Tenn.) (the "Tennessee Action").

4. Attached hereto as Exhibit 2 is a true and correct copy of the answer in the Tennessee Action filed by Paragon Products USA, Inc. and UniPet USA LLC.

5. Attached hereto as Exhibit 3 is a true and correct copy of an August 2011 press release titled "The GREENIES® Brand Helps Keep Pets' Smiles Healthy," available at <http://www.mars.com/global/press-center/press-list/news-releases.aspx?siteid=94&id=3115>, as of October 7, 2015.

I declare under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct.

Dated: October 7, 2015

/s/ David M. Horniak  
David M. Horniak